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EXAMINER

SCHUBERT, KEVIN R

ART UNIT PAPER NUMBER

2137

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,021

Applicant(s)

CANDELORE, BRANT L.

Examiner

Kevin Schubert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-33 have been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,6-8,10,11,13-16,18,19,21-24,26-29,31-33 rejected under 35 U.S.C. 102(e) as being unpatentable by Sites, U.S. Patent No. 6,728,880.

As per claim 1, the applicant discloses the following method for providing a secure time reference, which is anticipated by Sites:

- a) generating a clock signal at a source (Col 1, lines 27-32);
- b) encrypting said clock signal (Col 2, lines 42-49);
- c) transmitting said encrypted clock signal to a remote content playing apparatus (Col 1, lines 27-32);
- d) receiving said encrypted clock signal at said remote content playing apparatus (Col 1, lines 27-32);
- e) decrypting said encrypted clock signal at said remote content playing apparatus (Col 2, lines 52-55);
- f) altering the playability of content on said remote content playing apparatus by reference to said clock signal and a set of timing playback constraints specific to said content (Col 1, lines 48-50);

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As per claim 2, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said clock signal comprises a date signal (Col 2, lines 16-19);

Applicant should note that Greenwich Mean Time (GMT) refers to a time-of-day and a date.

As per claim 3, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said clock signal comprises a time-of-day signal (Col 2, lines 16-19);

Applicant should note that Greenwich Mean Time (GMT) refers to a time-of-day and a date.

As per claims 4, 16, and 29, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said clock signal is encrypted by use of a process comprising a private key (Col 2, lines 46-49);

As per claims 6, 22, 31, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said step of transmitting said encrypted clock signal by said source is in response to a transmitted query (Col 1, lines 27-32);

The applicant should note that the transmitted query is the original local time signal the remote computer sends the server in order to receive trusted time data.

As per claims 7, 10, 18, 32, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said step of transmitting said encrypted clock signal is done by use of a process comprising use of the internet (Col 5, lines 38-40);

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As per claims 8,11,19,24,33, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said step of transmitting said encrypted clock signal is done by use of a process comprising satellite technology (Col 5, lines 41-43);

The applicant should note that Sites has defined his invention to incorporate the broad claim of being wireless. Since satellite technology is a specific type of wireless signaling, the claims are met by Sites.

As per claim 13 and 26, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said clock signal is decrypted at said remote content playing apparatus by use of a process comprising use of a public key (Col 2, lines 52-55);

The applicant should note that claim 26 is the same as claim 13 except that it mentions that a private key is used in the process. The passage cites the use of both a private and a public key.

As per claim 14, the applicant discloses the method of claim 1, which is met by Sites (see above), with a further limitation which is also met by Sites:

wherein said content comprises intellectual property protected by copyright (Col 1, lines 48-50);

As described in lines 48-50, knowing the correct time is used to "maintain the security of a document security scheme". Since Sites claims that the invention can be used with a variety of devices including computers, personal digital assistants, and other digital devices (Col 2, lines 7-12), the document which Sites describes could be a variety of things, including intellectual property protected by copyright.

As per claim 15, the applicant discloses a source apparatus capable of transmitting a clock signal comprising the following limitations which are met by Sites:

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a) a clock signal source device capable of generating said clock signal, and wherein said clock signal comprises a date signal (Col 1, lines 27-32; Col 2, lines 16-19);

b) an encryption device, coupled with said source device, wherein said encryption device is capable of encrypting said clock signal (Col 2, lines 42-49);

c) a transmitting device, coupled with said source device and said encryption device, wherein said transmitting device is capable of transmitting said encrypted clock signal to a remote content playing apparatus in response to a time query therefrom (Col 1, lines 27-32);

The applicant should note that Sites calls the source apparatus a trusted server. Also, as described earlier, the remote content playing device is the remote computer or like device as described by Sites (Col 2, 3-12). Applicant should note that Greenwich Mean Time (GMT) refers to a time-of-day and a date.

As per claim 21, the applicant discloses a receiving apparatus with the following limitations which are met by Sites:

a) a receiving device capable of receiving a transmitted, encrypted, clock signal from an external source, and wherein said clock signal comprises a date signal (Col 1, lines 27-32; Col 2, lines 16-19);

b) a decryption device, coupled with said receiving device, wherein said decryption device is capable of decrypting said clock signal (Col 2, lines 52-54);

c) a content playing device capable of rendering digitized content (Col 1, lines 48-50);

As per claim 27, the applicant discloses the receiving apparatus of claim 21, which is met by Sites (see above), with the following limitation which is also met by Sites:

wherein said content playing device is adapted to alter the playback of said content by reference to said clock signal and to said set of time constraints (Col 1, lines 48-50);

As described in the rejection of claim 1 part (f), though Sites does not specifically reference timing playback constraints, he does write that the computer or like content playing apparatus needs to know the correct time to "maintain the security of a document security scheme that depends on knowing a correct

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time" (Col 1, lines 49-50). If the document depends on knowing an exact time, it would be subject to constraints such as timing playback constraints if the device were a content player.

As per claim 28, the applicant discloses a system with a source apparatus and accompanying limitations, which are met by Sites (see claim 15 above for a1-a3 and claim 17 for a4), and a receiving apparatus and accompanying limitations, which are met by Sites (see claim 21 above for b1 and b2 and claim 1 for b3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,9,12,17,20,25, and 30, are rejected under 35 U.S.C. 103(a).

Claims 5,17, and 30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sites.

As per claim 5,17, and 30, the applicant discloses the limitations of claim 1, which are met by Sites (see above), with the following limitation which is also met by Sites:

further comprising the step of said remote content playing apparatus transmitting a query code to said source and wherein said query code is encrypted by use of a process comprising a public key (Col 2, lines 46-49);

Sites discloses all the limitations of claim 1. However, Sites fails to disclose that the query sent to the source from the device is encrypted. Sites does disclose that the trusted time data from the source is encrypted in order maintain the integrity of the data. It would have been obvious to one of ordinary skill in the art at the time the invention was filed to modify Sites to encrypt the query sent to the source device because of Sites' teaching of the need to encrypt data to maintain its integrity.

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Claims 9,12,20, and 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sites in view of Nissl, U.S. Patent No. 6,530,023.

As per claims 9,12,20, and 25, the applicant discloses the limitations of claim 1, which are met by Sites (see above), with the following limitation which is met by Nissl:

wherein said step of transmitting said encrypted clock signal is done by use of a process comprising use of a telephone system (Col 3, lines 49-54);

Sites discloses all the limitations of claim 1. However, Sites fails to disclose that the process can be done over a telephone system. Nissl discloses a similar time validation system to Sites' system, and Nissl discloses that the process can be done over a telephone system because a telephone system is one of a variety of ways to transmit signals. It would have been obvious to one of ordinary skill in the art to combine the teachings of Nissl with those of Sites and incorporate the use of a telephone system because it is a well-known form of signal transmission.

Response to Arguments

Applicant's arguments in regards to claims 1,15,21, and 28, filed 2/7/05 have been fully considered but they are not persuasive. The content playing device is the computer, pda, or digital appliance (Col 2, 3-12). Sites discloses that a process running on the computer maintains "the security of a document security scheme that depends on knowing a correct time" (Col 1, lines 49-50). Thus, Sites discloses that content on the remote computer, pda, or digital appliance is subject to timing playback constraints specific to said content. It is inherent in the system that changing the clock signal alters the playability of the content on the computer, pda, or digital appliance because the content depends on the updated clock signal.

Applicant's arguments in regards to claims 2,15,21, and 28 have been fully considered but they are not persuasive. Greenwich Mean Time is both time and date. Since the trusted server sends time based on GMT, the time signal includes both time and date.

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Applicant's arguments in regards to claims 5,17, and 30 have been fully considered but they are not persuasive. The examiner noted in the previous rejection that Sites discloses the use of sending a query signal to the source but that Sites does not disclose that the query signal is encrypted. The use of encryption is an obvious 103 improvement on Sites based on Sites ideas throughout the patent because encryption protects the security of data as disclosed by Sites. This is why the clock signal is encrypted.

Applicant's arguments in regards to claims 9,12,20, and 25 have been fully considered but they are not persuasive. Nissl was not combined with Sites to teach the altering of playability of content. Sites already teaches this. Nissl simply teaches the idea that transmitting a clock signal can be done through a telephone system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Schubert whose telephone number is (571) 272-4239. The examiner can normally be reached on M-F 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Andrew Caldwell". The signature is written in a cursive, flowing style.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER